

31911
DO

SERVICE DATE - JUNE 12, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 17X)

WISCONSIN CENTRAL LTD.--ABANDONMENT EXEMPTION--
IN MARQUETTE AND ALGER COUNTIES, MI

Decided: June 7, 2001

On December 19, 1997, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the Michigan Department of Natural Resources (MDNR) to negotiate an interim trail use/rail banking agreement with Wisconsin Central Ltd. (WCL) for an approximately 37.3-mile line of railroad on the Marquette-Munising Line, between milepost 154, at a point east of Marquette, and milepost 116.7 in Munising Junction, in Marquette and Alger Counties, MI.¹ The negotiation period was extended several times; the latest extension expired on June 3, 2001.²

By facsimile filed June 4, 2001, MDNR requests an additional 180-day extension of the negotiating period. MDNR states that it and WCL are continuing to negotiate an interim trail use/rail banking agreement and expect to complete it within 180 days. In a response submitted by facsimile on June 6, 2001, WCL agreed to the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.³ Under the circumstances, further extension of the negotiation period is warranted. See *Birt v. STB*, 90 F.3d 580, 588-90 (D.C. Cir. 1996); *Grantwood Village v. Missouri Pac. R.R. Co.*, 95 F.3d 654, 659 (8th Cir. 1996), *cert. denied*, 519 U.S. 1149 (1997). Accordingly, the NITU negotiation period will be extended to November 30, 2001.

¹ Notice of the exemption under 49 CFR 1152 Subpart F--Exempt Abandonments was served and published in the Federal Register on November 21, 1997 (62 FR 62401-02).

² The negotiation period under the NITU was extended by decisions served June 17, 1998, December 14, 1998, June 11, 1999, December 9, 1999, June 30, 2000, and December 14, 2000.

³ See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.--Aban.--In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended to November 30, 2001.
2. The decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary